

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

TERENCE B. WAITES,

Plaintiff,

v.

Case No. 13-CV-12914  
Honorable Denise Page Hood

COMMISSIONER OF SOCIAL  
SECURITY,

Defendant.

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**ORDER ACCEPTING REPORT AND RECOMMENDATION [#17]**  
**and**  
**CLOSING CASE**

This matter is before the Court on Magistrate Judge Steven Whalen's Report and Recommendation. **[Docket No. 17, filed July 31, 2014]** In this Report and Recommendation, Magistrate Whalen recommended that this Court **GRANT** Defendant, the Commissioner's Motion for Summary Judgment **[Docket No. 14, filed January 14, 2014]**, **DENY** Plaintiff's Motion for Summary Judgment **[Docket No. 11, October 25, 2013]**, and **AFFIRM** the Commissioner's Decision. Neither party has filed an objection within the time provided under 28 U.S.C. § 636(b)(1) and E.D. Mich. LR 72.1(d).

Judicial review of the Commissioner's decision is limited in scope to determining whether the Commissioner employed the proper legal criteria in reaching

his conclusion. *Garner v. Heckler*, 745 F.2d 383 (6th Cir. 1984). The credibility findings of an administrative law judge (“ALJ”) must not be discarded lightly and should be accorded great deference. *Hardaway v. Secretary of Health and Human Services*, 823 F.2d 922, 928 (6th Cir. 1987). A district court’s review of an ALJ’s decision is not a *de novo* review. The district court may not resolve conflicts in the evidence nor decide questions of credibility. *Garner*, 745 F.2d at 397. The decision of the Commissioner must be upheld if supported by substantial evidence, even if the record might support a contrary decision or if the district court arrives at a different conclusion. *Smith v. Secretary of HHS*, 893 F.2d 106, 108 (6th Cir. 1984); *Mullen v. Bowen*, 800 F.2d 535, 545 (6th Cir. 1986) (en banc).

The Court has had an opportunity to review this matter and finds that the Magistrate Judge reached the correct conclusion for the proper reasons. The Magistrate Judge reviewed the ALJ’s findings and the record thoroughly in reaching his conclusion that “the ALJ’s determination that [Plaintiff] was capable of light work is within the ‘zone of choice’ accorded to the fact-finder at the administrative hearing level and should not be disturbed by this Court.” *See Mullen*, 800 F.2d at 545 (stating that the standard of review is deferential and “presupposes that there is a ‘zone of choice’ within which decision makers can go either way, without interference from the courts.”).

Accordingly,

**IT IS ORDERED** that the Report and Recommendation of Magistrate Judge Steven Whalen [**Docket No. 17, filed July 31, 2014**] is **ACCEPTED** and **ADOPTED**.

**IT IS FURTHER ORDERED** that Plaintiff's Motion for Summary Judgment [**Docket No. 11, October 25, 2013**] is **DENIED**.

**IT IS FURTHER ORDERED** that the Commissioner's Motion for Summary Judgment [**Docket No. 14, filed January 14, 2014**] is **GRANTED**.

**IT IS FURTHER ORDERED** that the Commissioner's decision is **AFFIRMED** and this case is **CLOSED**.

**IT IS SO ORDERED.**

S/Denise Page Hood  
Denise Page Hood  
United States District Judge

Dated: August 28, 2014

I hereby certify that a copy of the foregoing document was served upon counsel of record on August 28, 2014, by electronic and/or ordinary mail.

S/LaShawn R. Saulsberry  
Case Manager